

Washington redistricting commission sued over transparency issues as behind-the-scenes dealings emerge

Dec. 10, 2021 at 11:25 am Updated Dec. 10, 2021 at 5:02 pm



Washington's redistricting commissioners, top row: April Sims, Brady Piñero Walkinshaw. Bottom row, Joe Fain, left, and Paul Graves. (Washington State Legislature / AP)



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A government transparency group has sued Washington's bipartisan redistricting commission alleging its members violated the state's Open Public Meeting Act, as new inside information about the panel's chaotic final negotiations emerged.

The [Washington Coalition for Open Government](#) filed the lawsuit Thursday in Thurston County Superior Court, saying commissioners flouted the public meetings law by negotiating secretly for hours on Nov. 15 before taking [a rushed pre-midnight vote](#) on congressional and legislative district maps that were not publicly displayed or debated.

The lawsuit seeks to void the commission's final vote, impose a \$500 fine on each commissioner and obtain reimbursement for attorney's fees. It does not take a position on the merits of the map agreed to — past the deadline — by the commission.

"In the end, the commission failed to meet its deadline and to complete its work," said Mike Fancher, the nonprofit coalition's president, in a statement. "That failure is a powerful reminder that bad process leads to bad outcomes. The commission damaged public trust in our system of governing, which always happens when secrecy prevails over transparency."

Lisa McLean, the Redistricting Commission's executive director, said in an email the commission "has received notice of the lawsuit and is consulting with counsel."

Rushing to meet that deadline, the commission convened a 7 p.m. public video conference. But the four voting commissioners quickly retreated into private talks, occasionally popping back into public view to make brief and largely uninformative statements.

Over the five hours of the meeting, the publicly observable portion made up just 31 minutes and 21 seconds, the coalition's lawsuit notes. When the commissioners emerged shortly before midnight, ostensibly to vote on the final maps, they did not share any maps or agreements publicly.

"Any maps drawn, staff apparently crafted in secret behind closed doors or in a breakout room or platform wholly inaccessible to the public. The public had no opportunity to see or hear what the commissioners were voting to approve," the lawsuit states. "It was apparent that the commissioners similarly had no common understanding of what it was they were voting to approve."

[A newly revealed memo](#) by a commission insider may provide further grist for the lawsuit's claims, while raising additional questions about the commissioners' conduct during the pressure-packed final hours of negotiations.

According to the memo, commissioners and staff were meeting in person in a Federal Way hotel lobby and communicating via text messages to finalize the maps — all while the public meeting was taking place. But they didn't finish the maps, despite claiming to vote on them.

"There were no congressional or legislative maps voted on at the eleventh-hour ... That is because they were not finalized at the time of the vote," said the Nov. 21 memo written by Ali O'Neil, a staffer working with state Senate Democrats on redistricting.

“It was an incredibly tense, chaotic environment with very little time or opportunity to ask questions or fully understand what was happening. The agreement that the commissioners were voting to approve was not restated nor written down anywhere,” O’Neil wrote in the memo, addressed to state Senate Majority Leader Andy Billig, D-Spokane.

Commissioners have apologized for the lack of transparency in their final negotiations, saying they only negotiated privately in groups of two in order to avoid an illegal meeting of a majority of the panel.

In her memo, O’Neil said she saw “at least once” a commissioner walking past while two others were talking in a hallway.

The memo also says the commissioners were focused during final talks “almost solely on partisanship numbers in a few legislative districts” — with the map boundaries secondary to those political concerns.

In addition to the filing in Thurston County, the lawsuit was filed Friday directly to the state Supreme Court, which can decide to take it up directly, said Joan Mell, an attorney representing Washington Coalition for Open Government.

The voting members of the Redistricting Commission include Democratic appointees April Sims and Brady Piñero Walkinshaw, and Republican appointees Paul Graves and Joe Fain. The panel was chaired by Sarah Augustine, a nonpartisan, nonvoting member.

O’Neil’s memo details negotiations on map boundaries continuing after the midnight deadline, noting Fain wrangling with Walkinshaw over whether Normandy Park should be in the 9th Congressional District or the 7th District.

It also said Senate Democratic aides warned that a commission vote without the final maps “may not be legal.”

The commissioners and staffers worked all night and into the morning in an attempt to post maps they had claimed agreement on after the hasty pre-midnight votes.

“The commissioners were urging staff to hurry and finish the maps so they could be posted as quickly as possible and before reporters woke up. There was a news conference scheduled for 10 a.m., and the commissioners said they hoped that if the maps were posted beforehand, the questions from reporters would focus more on the maps rather than the process of the public meeting and the vote,” O’Neil’s memo stated.

After the deadline lapsed, the memo says, all five commissioners gathered in a meeting room at a Hampton Inn. “Someone joked that since it was past midnight and the commission no longer had jurisdiction, that the [Open Public Meetings Act] rules didn’t apply.”

The redistricting commissioners have acknowledged they failed to meet the Nov. 15 deadline, taking some votes after midnight and scrambling to assemble final maps over the next several hours. Commissioners also have said they voted on a framework for maps, but that it took several hours to translate their agreement into actual map boundaries.

The commission's failure put redistricting authority into the hands of the state Supreme Court, which last week [declined to exercise that authority](#), ruling the commission had substantially completed its work by its deadline and leaving in place the commission-drawn maps.

In its ruling, the court appeared to accept at face value a timeline submitted by Augustine which did not include details outlined in O'Neil's memo.

The new lawsuit could cause the court to revisit that decision.

In addition to the lawsuit, the coalition filed [an administrative petition](#) directly with the commission. That filing asks the commission to formally declare its actions violated the law and to put reforms in place.

"[Washington Coalition for Open Government] cannot tolerate any agency disregarding public transparency and must pursue alternative corrective measures if the commission will not self-correct and implement rules going forward that preclude the commission from repeating its same mistakes again in the future," the administrative petition stated.

The lawsuit is the second filed against the commission over alleged open-meeting violations. Arthur West, a government transparency activist, separately filed a lawsuit last month in Thurston County Superior Court.

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